



TPJ

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	ATTY'S DKT:
HIRAHARA et al.	)	HIRAHARA1
	)	
	)	Art Unit: 3623
Appln. No.: 09/668,296	)	
	)	Washington, D.C.
Filed: September 25, 2000	)	
	)	Ex: E. Shaffer
For: VISITING PLAN GENERATION...)	)	
	)	February 25, 2005

**PETITION TO VACATE HOLDING OF ABANDONMENT<sup>1</sup>**

U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building, Mail Stop  
401 Dulany Street  
Alexandria, VA 22314

Sir:

Applicant is in receipt of the Notice of Abandonment, mailed January 26, 2005, which **erroneously** states that the application is abandoned because of applicant's failure to file a response within the time period established by the Office Action mailed June 15, 2004.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

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<sup>1</sup> If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

THE FACTS

Applicant timely and properly responded within the time period established by the Office Action dated by timely filing a Request for Continued Examination (RCE) with two months' extension of time on November 5, 2004.

As evidence that such response was timely and properly filed on November 5, 2004, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on November 5, 2004.

As it appears that the response filed on November 5, 2004, has been lost by and in the PTO, attached hereto is a duplicate signed copy of the response [entitled "Request for Continued Examination (RCE) Transmittal"] dated November 5, 2004, and related papers. **However, as the fee for has already been paid, this executed copy is not to be taken as authorization to charge said extension of time fee. No further fees are required at this time.**

REMARKS

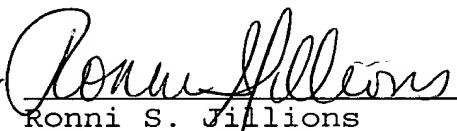
In view of the above evidence, it is clear that a response was timely and properly filed within the time period established by the Office Action mailed on June 15, 2004, and that the Notice of Abandonment has been issued in error.

Indeed, the postcard by itself should be sufficient, as MPEP Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

It accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

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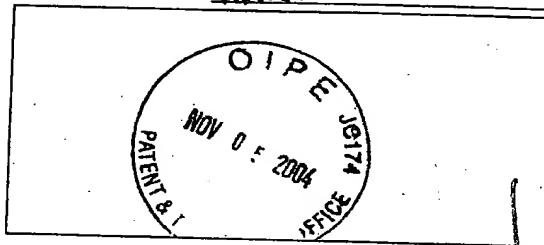


APPLICATION/PATENT NO: 09/668,296  
DOCKET NO: HIRAHARA-1

THE PATENT AND TRADEMARK OFFICE STAMP  
HEREON ACKNOWLEDGES RECEIPT OF THE  
FOLLOWING PAPERS:

FEES \$1220.00 PTO FORM 2038  
 EXTENSION OF TIME ( 2 MONTHS)  
 TRANSMITTAL LETTER  
 MISSING PARTS RESPONSE WITH DECL  
 AMENDMENT/RESPONSE (circle one)  
     PRELIMINARY    SUPPLEMENTAL  
 APPLICATION DATA SHEET  
 RESTRICTION/ELECTION REPLY  
 SEQUENCE LISTING    WITH DISK  
 RCE TRANSMITTAL  
 REQUEST FOR STATUS  
 NOTICE OF APPEAL  
 APPEAL BRIEF/REPLY BRIEF (TRIPLICATE)  
 REQUEST & CERTIFICATE OF CORRECT TRADEMARK OFFICE  
 OTHER \_\_\_\_\_

CONF. NO.: 1273  
CLIENT CODE: KANF



ASSIGNMENT  
 INFORMATION DISCLOSURE STATEMENT  
     FORM SB08A & \_\_\_\_\_ PATENTS/PUBS  
 PRIORITY DOCUMENT(S) NO. \_\_\_\_\_  
 DECLARATION UNDER § \_\_\_\_\_  
     \_\_\_\_\_ SHEETS OF FORMAL DRAWINGS  
 ISSUE FEE TRANSMITTAL FORM  
     PUBLICATION FEE  
 MAINTENANCE FEE LETTER

B&N-1

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Request  
For  
Continued Examination (RCE)  
Transmittal

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450A

FEB 25 2005

Application Number	09/668,296
Filing Date	September 25, 2000
First Named Inventor	Makoto HIRAHARA et al
Group Art Unit	3623
Examiner Name	E.T. SHAFFER
Attorney Docket Number	HIRAHARA-1

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to USPTO) on page 2.

1. Submission required under 37 C.F.R. § 1.114. Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a.  Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i.  Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

ii.  Other \_\_\_\_\_

b.  Enclosed

i.  Amendment/Reply

ii.  Affidavit(s)/Declaration(s)

iii.  Information Disclosure Statement (IDS)

iv.  Other \_\_\_\_\_

## 2. Miscellaneous

a.  Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(l) required).

b.  Other \_\_\_\_\_

## 3. Fees

The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when RCE is filed.

a.  The director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 02-4035

i.  RCE fee required under 37 CFR 1.17(e)

ii.  Extension of time fee (37 CFR. 1.136 and 1.17)  \$ \_\_\_\_\_ already paid for \_\_\_\_\_ month(s) extension of time on \_\_\_\_\_

iii.  Other \_\_\_\_\_

b.  Check in the amount of \$ \_\_\_\_\_ enclosed (Check No. \_\_\_\_\_)

c.  Credit card (Form PTO-2038 enclosed) authorized in the amount of \$ 1,220.00

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

d.  Provisional extension of time if needed. Applicants authorize any charge of additional fees (except issue fee) which may be required in connection with this application to Deposit Account No. 02-4035.

## SIGNATURE OF APPLICANT, ATTORNEY, AGENT REQUIRED

Name (Print/Type)	Ronni S. Jillions	Registration No. (Attorney/Agent)	31,979
Signature	<u>Ronni S. Jillions</u>	Date	11/5/04

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	Registration No. (Attorney/Agent)
Signature	Date

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 and select option 2.